

**SUBSTITUTE FOR  
SENATE BILL NO. 896**

A bill to provide for a catastrophic stop loss fund and catastrophic stop loss benefit plans; to create a board of directors of the catastrophic stop loss fund; to prescribe the conditions upon which school employers may provide certain benefits; to require the compilation and release of certain information and data; and to provide certain powers and duties to certain state officials, departments, agencies, and authorities.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 1. This act shall be known and may be cited as the  
2       "school employees health benefit act".

3       Sec. 3. As used in this act:

4       (a) "Board" means the board of directors created under section  
5       5.

1 (b) "Carrier" means a health or vision insurance company  
2 authorized to do business in this state under, and a health  
3 maintenance organization operating under, the insurance code of  
4 1956, 1956 PA 218, MCL 500.100 to 500.8302; a system of health care  
5 delivery and financing as defined in section 3573 of the insurance  
6 code of 1956, 1956 PA 218, MCL 500.3573; a dental care corporation  
7 operating under 1963 PA 125, MCL 550.351 to 550.373; and a  
8 nonprofit health care corporation operating under the nonprofit  
9 health care corporation reform act, 1980 PA 350, MCL 550.1101 to  
10 550.1704.

11 (c) "Commissioner" means the commissioner of the office of  
12 financial and insurance services.

13 (d) "Consumer price index" means the percentage of change in  
14 the consumer price index for all urban consumers in the United  
15 States city average for all items for the calendar year ending  
16 prior to the June 1 effective date of the adjustment under section  
17 7 as reported by the United States department of labor, bureau of  
18 labor statistics, and as certified by the commissioner.

19 (e) "Public university" means a public university described in  
20 section 4, 5, or 6 of article VIII of the state constitution of  
21 1963.

22 (f) "School employee" means an employee of a school employer.

23 (g) "School employer" means a school district, a public school  
24 academy, or an intermediate school district, as those terms are  
25 defined in the revised school code, 1976 PA 451, MCL 380.1 to  
26 380.1852, and a community college or junior college described in  
27 section 7 of article VIII of the state constitution of 1963.

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1 (h) "School medical benefit plan" means a plan established and  
2 maintained by 1 or more school employers that provides for the  
3 payment of medical benefits, including, but not limited to,  
4 hospital and physician services, prescription drugs, and related  
5 benefits, to school employees.

6 Sec. 5. (1) There is created a board of directors to  
7 administer the catastrophic stop loss fund. The board shall consist  
8 of <<10>> directors as follows:

9 (a) The following 8 directors appointed by the governor with  
10 the advice and consent of the senate:

11 (i) Until July 1, 2007, 2 directors with some background in  
12 insurance issues representing school employers, and, effective July  
13 1, 2007, 2 directors with some background in insurance issues  
14 representing school employers that have selected a catastrophic  
15 stop loss benefit plan and participate in the catastrophic stop  
16 loss fund.

17 (ii) Until July 1, 2007, 2 directors with some background in  
18 insurance issues representing collective bargaining organizations  
19 that represent school employees, at least 1 of whom is recommended  
20 by the Michigan state AFL-CIO, and, effective July 1, 2007, 2  
21 directors representing collective bargaining organizations that  
22 represent school employees of school employers that have selected a  
23 catastrophic stop loss benefit plan and participate in the  
24 catastrophic stop loss fund, at least 1 of whom is recommended by  
25 the Michigan state AFL-CIO.

26 (iii) One director representing the general public.

<<(iv) One director representing the general public with expertise  
in health promotion and chronic care management programs that include, at  
a minimum, promoting nutrition and physical exercise and compliance with  
disease management programs and preventive service guidelines that are  
supported by evidence-based medical practice.>>

27 <<(v)>> One director representing the house of representatives

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1 with some background in insurance issues as recommended by the  
2 speaker of the house of representatives.

3 << (vi) >> One director with some background in insurance issues  
4 representing the senate as recommended by the senate majority  
5 leader.

6 << (vii) >> One director who is an actuary in good standing with the  
7 American academy of actuaries or the society of actuaries, who  
8 shall serve ex officio and without vote.

9 (b) The commissioner or his or her designee, who shall serve  
10 ex officio and without vote.

11 (2) The directors first appointed to the board shall be  
12 appointed within 60 days after the effective date of this act.

13 (3) The board shall adopt rules providing for the composition  
14 and term of successor boards to the initial board, consistent with  
15 subsection (1). Terms of the board directors shall be staggered so  
16 that the terms of all directors do not expire at the same time. The  
17 appointment of a successor director or to fill a vacancy shall be  
18 made in the same manner as the original appointment.

19 (4) Except as otherwise provided, each board director shall  
20 have 1 vote on any matter coming before the board.

21 (5) The first meeting of the board shall be called by the  
22 commissioner. At the first meeting, the board shall elect from  
23 among the directors a chairperson and other officers as it  
24 considers necessary or appropriate. After the first meeting, the  
25 board shall meet at least quarterly, or more frequently at the call  
26 of the chairperson or if requested by 3 or more directors.

27 (6) A majority of the directors of the board constitute a

1 quorum for the transaction of business at a meeting of the board. A  
2 majority of the directors present and serving are required for  
3 official action of the board.

4 (7) Directors of the board shall serve without compensation.  
5 However, board directors may be reimbursed for their actual and  
6 necessary expenses incurred in the performance of their official  
7 duties as board directors.

8 (8) The board is not a state board or agency and the  
9 catastrophic stop loss fund administered by the board is not a  
10 state fund.

11 Sec. 7. (1) Beginning July 1, 2006, the board shall implement  
12 and administer a catastrophic stop loss fund that provides 1 or  
13 more catastrophic stop loss benefit plans. The catastrophic stop  
14 loss fund shall reimburse a participating school medical benefit  
15 plan for a claim that exceeds the dollar threshold of the  
16 catastrophic stop loss benefit plan chosen by the participating  
17 school medical benefit plan. The board shall adopt a plan of  
18 operation for the catastrophic stop loss fund that shall provide  
19 for the management and nonprofit operation of the catastrophic stop  
20 loss fund and each catastrophic stop loss benefit plan consistent  
21 with this act.

22 (2) The board shall establish the catastrophic stop loss fund  
23 and 1 or more catastrophic stop loss benefit plans. The board shall  
24 do all of the following:

25 (a) Provide for reimbursement to a participating school  
26 medical benefit plan for the portion of a covered medical benefit  
27 claim that exceeds a dollar threshold established by the board in

1 the catastrophic stop loss benefit plan selected by the school  
2 medical benefit plan. The minimum dollar threshold to be provided  
3 under a catastrophic stop loss benefit plan shall not be less than  
4 \$50,000.00 per individual claim. The board may provide for  
5 additional catastrophic stop loss benefit plans that provide dollar  
6 threshold levels above \$50,000.00 per individual claim. A dollar  
7 threshold level established under this subdivision in a  
8 catastrophic stop loss benefit plan shall be adjusted to reflect  
9 changes in the consumer price index by June 1 of each year.

10 (b) Provide that each catastrophic stop loss benefit plan is  
11 subject to the following:

12 (i) Does not require any changes in the participating school  
13 medical benefit plan for payment from the catastrophic stop loss  
14 fund.

15 (ii) Provides for continuity of health care treatment and  
16 providers for individuals covered under the participating school  
17 medical benefit plan.

18 (c) Maintain relevant and accurate loss and expense data  
19 relative to all liabilities of each catastrophic stop loss benefit  
20 plan.

21 (d) Require each school medical benefit plan to furnish claims  
22 data at the times and in the form and detail as may be required by  
23 the catastrophic stop loss fund.

24 (e) Determine a premium for each catastrophic stop loss  
25 benefit plan that is sufficient to cover expected losses and  
26 expenses that the catastrophic stop loss fund will likely incur  
27 during the period for which the premium is applicable. The premium

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1 shall include an amount to cover incurred but not reported losses  
2 for the period and may be adjusted for any excess or deficient  
3 premiums from previous periods. Excesses or deficiencies from  
4 previous periods may be fully adjusted in a single period or may be  
5 adjusted over several periods.

6 (f) Receive and distribute all sums required for the operation  
7 of the catastrophic stop loss fund.

8 (g) Adopt an investment policy for investing and reinvesting  
9 the assets of the catastrophic stop loss fund that complies with  
10 investment limitations governing the investment of assets of public  
11 employee retirement systems under the public employee retirement  
12 system investment act, 1965 PA 314, MCL 38.1132 to 38.1140m.

13 (h) Provide a comprehensive program of case management  
14 services that shall be offered to a participating school medical  
15 benefit plan for a covered individual whose claim is covered under,  
16 or is likely to become covered under, the catastrophic stop loss  
17 fund.

18 (i) Provide 1 or more incentives to participating school  
19 medical benefit plans, <<

20 >> to provide health promotion and chronic care management  
21 programs to covered individuals of a participating school medical  
22 benefit plan for the purpose of improving or maintaining the health  
23 of covered individuals and reducing unnecessary or excessive  
24 medical expenses. <<Incentives may include an appropriate rebate of  
premiums paid for a demonstrated maintenance or improvement of members'  
health status as determined by assessments of agreed upon health status  
indicators.>> Health promotion and chronic care management

25 programs shall meet, if applicable, nationally recognized  
26 accreditation standards. If nationally recognized accreditation  
27 standards are not applicable, health promotion and chronic care

1 management programs shall meet standards established by the board  
2 which shall include, at a minimum, complete health risk  
3 assessments.

4 (3) All school medical benefit plans in this state shall be  
5 offered the opportunity to select a catastrophic stop loss benefit  
6 plan and participate in the catastrophic stop loss fund. A public  
7 university shall be offered the opportunity to select a  
8 catastrophic stop loss benefit plan and participate in the  
9 catastrophic stop loss fund.

10 (4) The catastrophic stop loss fund shall do all of the  
11 following:

12 (a) Assume 100% of all liability for any covered claim  
13 exceeding the dollar threshold under the applicable catastrophic  
14 stop loss benefit plan.

15 (b) Maintain relevant and accurate loss and expense data  
16 relative to all liabilities of the catastrophic stop loss fund.

17 (c) Maintain reserves as are required by the commissioner as  
18 being necessary in the exercise of sound and prudent actuarial  
19 judgment for the preservation, maintenance, and operation of the  
20 catastrophic stop loss fund.

21 Sec. 9. (1) The board may do any of the following:

22 (a) Sue and be sued in the name of the catastrophic stop loss  
23 fund. A judgment against the board shall not create any direct  
24 liability against the participating school medical benefit plans or  
25 school employers.

26 (b) Purchase coverage to cede all or any portion of its  
27 potential liability with an insurer licensed to transact insurance



1 in this state or otherwise approved by the commissioner.

2 (c) Provide for appropriate housing, equipment, and personnel  
3 as may be necessary to assure the efficient operation of the  
4 catastrophic stop loss fund.

5 (d) Adopt reasonable rules for the administration of the  
6 catastrophic stop loss fund, enforce those rules, and delegate  
7 authority, as the board considers necessary to assure proper  
8 administration and operation.

9 (e) Contract for goods and services, including independent  
10 claims management and actuarial, investment, and legal services to  
11 assure the efficient operation of the catastrophic stop loss fund.

12 (f) Perform other acts that are necessary or proper to  
13 accomplish the purposes of the catastrophic stop loss fund.

14 (2) The board shall hear and determine complaints concerning  
15 the operation of the catastrophic stop loss fund.

16 Sec. 11. (1) Subject to collective bargaining requirements  
17 under 1947 PA 336, MCL 15.201 to 15.217, a school employer may  
18 provide medical, optical, or dental benefits to school employees  
19 and their dependents by any of the following methods:

20 (a) By establishing and maintaining a plan on a self-insured  
21 basis as provided in this act. A plan under this subdivision does  
22 not constitute doing the business of insurance in this state and is  
23 not subject to the insurance laws of this state.

24 (b) By joining with other school employers and establishing  
25 and maintaining a plan on a self-insured basis as provided in this  
26 act. A plan under this subdivision does not constitute doing the  
27 business of insurance in this state and is not subject to the

1 insurance laws of this state. A plan under this subdivision may  
2 enter into contracts and sue or be sued in its own name.

3 (c) By entering into an agreement under which contributions  
4 are made to a trust fund for the purpose of providing medical,  
5 dental, or optical benefits to school employees and their  
6 dependents under a plan agreed to by the school employer. A trust  
7 fund under this subdivision may receive contributions from 1 or  
8 more school employers and may provide medical, dental, and optical  
9 benefits to school employees of 1 or more school employers. A plan  
10 under this subdivision does not constitute doing the business of  
11 insurance in this state and is not subject to the insurance laws of  
12 this state.

13 (d) By procuring coverage from 1 or more carriers, either on  
14 an individual basis or with 1 or more other school employers.  
15 School employers may pool risks with other school employers under  
16 this subdivision to the extent permitted under a written agreement.

17 (e) By forming a multiple employer welfare arrangement under  
18 chapter 70 of the insurance code of 1956, 1956 PA 218, MCL 500.7001  
19 to 500.7090.

20 (2) This act does not prohibit a school employer from  
21 participating, for the payment of medical benefits and claims, in a  
22 purchasing pool or coalition to procure insurance or coverage,  
23 health care plan services, or administrative services.

24 (3) A school medical benefit plan participating in a  
25 catastrophic stop loss benefit plan that elects not to participate  
26 in a program of case management under section 7(2)(h) shall provide  
27 to covered individuals case management services that meet the case

1 management accreditation standards established by the national  
2 committee on quality assurance, the joint commission on health care  
3 organizations, or the utilization review accreditation commission.

4       Sec. 13. (1) In addition to other requirements as provided in  
5 this act, a self-insured school medical benefit plan established on  
6 or after the effective date of this act shall do all of the  
7 following:

8       (a) Maintain such reserves as are necessary, in the exercise  
9 of sound and prudent actuarial judgment, to cover the projected  
10 cost of medical benefits for covered school employees and  
11 dependents. A report of amounts so reserved and disbursements made  
12 from such funds, together with a written report of a member of the  
13 American academy of actuaries or the society of actuaries  
14 certifying whether the amounts reserved conform to the requirements  
15 of this subsection, are computed in accordance with accepted loss  
16 reserving standards, and are fairly stated in accordance with sound  
17 loss reserving principles, shall be prepared and filed with the  
18 commissioner, within 90 days after the last day of the fiscal year  
19 of the school employer. This report shall be made available for  
20 inspection by any person at all reasonable times during regular  
21 business hours, and, upon request, copies of the report shall be  
22 provided at cost within a reasonable period of time of the request.

23       (b) Provide for administration of the plan using personnel of  
24 the school employer or employers, personnel of an organization  
25 representing employees of the school employer, or by awarding a  
26 contract, without the necessity of competitive bidding, to any  
27 person, political subdivision, or corporation. No such contract

1 shall be entered into without full, prior, and public disclosure of  
2 all terms and conditions. The disclosure shall include, at a  
3 minimum, a statement listing all representations made in connection  
4 with any possible savings and losses resulting from the contract,  
5 and potential liability of the school employer or school employee.

6 (c) Enter into a contract with a member of the American  
7 academy of actuaries or the society of actuaries for the  
8 preparation of the written actuarial evaluation of a plan as  
9 required under subdivision (a). The actuarial evaluation shall be  
10 based on all of the following information:

11 (i) Access fees to a facility and provider discount network or  
12 other contracted provider network.

13 (ii) Paid claims for the immediately preceding 3 years,  
14 including pharmacy.

15 (iii) Estimated incurred claims for the immediately preceding 3  
16 years.

17 (iv) Plan administrative costs.

18 (v) Chronic case management fees.

19 (vi) Disease case management fees.

20 (vii) Preventive and wellness plan fees.

21 (d) Enter into agreements with providers of services to the  
22 school medical benefit plan, subject to the requirements of this  
23 act and as established by the commissioner.

24 (2) If the commissioner finds that a self-insured school  
25 medical benefit plan's reserves are not sufficient to meet the  
26 requirements of subsection (1)(a), the commissioner shall order the  
27 self-insured school medical benefit plan to immediately collect

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1 from any school employer that is or has been a member of the self-  
2 insured school medical benefit plan appropriately proportionate  
3 contributions sufficient to restore reserves to the required level.

4 The commissioner may take such action as he or she considers  
5 necessary, including, but not limited to, ordering the suspension  
6 or dissolution of a self-insured school medical benefit plan, if  
7 the self-insured school medical benefit plan is consistently  
8 failing to maintain adequate reserves, is using methods and  
9 practices that render further transaction of business hazardous or  
10 injurious to its members, employees, beneficiaries, or to the  
11 public, has failed, after written request by the commissioner, to  
12 remove or discharge an officer, director, trustee, or employee who  
13 has been convicted of any crime involving fraud, dishonesty, or  
14 moral turpitude, has failed or refused to furnish any report or  
15 statement required under this act, or if the commissioner, upon  
16 investigation, determines that it is conducting business  
17 fraudulently or is not meeting its contractual obligations in good  
18 faith. Any proceedings by the commissioner under this subsection  
19 shall be governed by the requirements and procedures of sections  
20 7074 to 7078 of the insurance code of 1956, 1956 PA 218, MCL  
21 500.7074 to 500.7078.

22       Sec. 15. (1) Beginning on the effective date of this act, a  
23 school employer shall not enter into or renew a school medical  
24 benefit plan or an administrative services agreement for a school  
25 medical benefit plan unless the school employer will be furnished  
26 with complete and accurate claims utilization and cost information  
27 as provided in subsection (2)(a) to <<(k)>> with respect to the school

1 employer's claims and benefits under the school medical benefit  
2 plan.

3 (2) Beginning on the effective date of this act, all school  
4 medical benefit plans in this state shall compile and make  
5 available upon request to the school employer complete and accurate  
6 claims utilization and cost information for the school medical  
7 benefit plan in the aggregate and for each school employer as  
8 follows:

9 (a) The number of persons covered under the school medical  
10 benefit plan.

11 (b) If applicable, the number of persons covered under a  
12 policy, certificate, or contract issued by a carrier.

13 (c) The number of claims paid.

14 (d) The dollar amount of claims paid and the dollar amount of  
15 claims incurred but not reported.

16 (e) The claims experience, by coverage component and by  
17 provider.

18 (f) The dollar amount of premiums or fees paid, if any.

19 (g) The dollar amount of administrative expenses incurred or  
20 paid.

21 (h) The dollar amount of retentions.

22 (i) The dollar amount for each of the following fees:  
23 provider; network; case management; precertification; and other  
24 service fees paid.

25 (j) The dollar amount of any fees or commissions paid to  
26 agents or brokers by the school medical benefit plan or by any  
27 school employer or carrier participating in or providing services

1 to the school medical benefit plan.

2 (k) Other information as may be required by the commissioner.

3 (3) The claims utilization and cost information required to be  
4 compiled under this section shall be compiled on an annual basis  
5 and shall cover a relevant period. For purposes of this subsection,  
6 the term "relevant period" means the 36-month period ending no more  
7 than 120 days prior to the effective date or renewal date of the  
8 school medical benefit plan under consideration. However, if the  
9 school medical benefit plan has been in effect for a period of less  
10 than 36 months, the relevant period shall be that shorter period.

11 (4) A school employer or combination of school employers shall  
12 make public the claims utilization and cost information required  
13 under this section no later than 60 days before the effective date  
14 or renewal date of the school medical benefit plan or the  
15 administrative services agreement under consideration. The school  
16 employer shall make the claims utilization and cost information  
17 required under this section available for inspection by any person  
18 at all reasonable times during regular business hours, and, upon  
19 the request of such person, copies of documents containing the  
20 information shall be provided at cost within a reasonable period of  
21 time.

22 (5) The claims utilization and cost information required under  
23 this section shall include only de-identified health information as  
24 permitted under the health insurance portability and accountability  
25 act of 1996, Public Law 104-191, or regulations promulgated under  
26 that act, 45 CFR parts 160 and 164, and shall not include any  
27 protected health information as defined in the health insurance

1 portability and accountability act of 1996, Public Law 104-191, or  
2 regulations promulgated under that act, 45 CFR parts 160 and 164.

3 Sec. 17. To encourage and facilitate informed decisions  
4 concerning school medical benefit plan design, the administration  
5 of school medical benefit plans, the selection of medical service  
6 providers, and the planning of medical care, the commissioner shall  
7 do all of the following:

8 (a) Gather data that evaluate and compare the cost,  
9 efficiency, and performance of administrative services provided to  
10 school medical benefit plans, including claims payment timeliness  
11 and accuracy, and make available easily accessible comparative  
12 ratings and descriptions of those plan administrators on a regular  
13 basis.

14 (b) Working with other state departments and agencies, ensure  
15 access on a regular basis for school employers, school medical  
16 benefit plans, and covered school employees to all of the following  
17 information:

18 (i) Information concerning cost and performance of Michigan  
19 hospitals, medical clinics, and other health care facilities,  
20 including, but not limited to, licensure, accreditation, and  
21 performance measures for those facilities as recommended by  
22 national organizations such as the national quality forum.

23 (ii) Information concerning cost and performance of Michigan  
24 physicians and other health care providers, including, but not  
25 limited to, medical training, years in practice, board  
26 certification, verified licensure information, patient experience,  
27 and the results of at least 2 clinical performance measures of



1 physicians and other health care providers recommended by national  
2 organizations such as the national quality forum.

3 (c) At least annually, prepare and make available for  
4 distribution to school employers and other interested persons a  
5 buyer's guide for school employers that provides information  
6 necessary to make informed decisions concerning school medical  
7 benefit plan design, the administration of school medical benefit  
8 plans, the selection of medical service providers, and the planning  
9 of medical care similar to information provided to assist buyers in  
10 making informed decisions in the buyer's guide to auto insurance in  
11 Michigan, the buyer's guide to home and renter's insurance in  
12 Michigan, and the HMO consumer's guide.

13 Enacting section 1. This act does not take effect unless all  
14 of the following bills of the 93rd Legislature are enacted into  
15 law:

16 (a) Senate Bill No. 895.

17 (b) Senate Bill No. 897.

18 (c) Senate Bill No. 898.